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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/807,365	04/12/2001	Toan Trinh	7823	7318

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EXAMINER

BOYER, CHARLES I

ART UNIT

PAPER NUMBER

1751

DATE MAILED: 07/21/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.  
09/807,365

Applicant(s)  
Trinh et al

Examiner  
Charles Boyer

Art Unit  
1751

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on Apr 12, 2001
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-7, 10-13, 15-21, 23, 24, 31-34, 37, 39-44, 46, 47, and 49-63 is/are pending in the application.
- 4a) Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7, 10-13, 15-21, 23, 24, 31-34, 37, 39-44, 46, 47, and 49-63 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some\* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\*See the attached detailed Office action for a list of the certified copies not received.

- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s). 4 6) ☐ Other:

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## DETAILED ACTION

### *Claim Objections*

1. Claim 15 is objected to because of the following informalities: Claim 15 reads "The method of any one of claim 14".

### *Claim Rejections - 35 USC § 112*

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claim 1 is rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. Claim 1 refers to a color care active which is defined only in terms of  $\Delta R$ ,  $\Delta L$ , and  $\Delta P$  values. There is no other guidance given to the reader as to how to make this invention. It is possible that every detergent composition known will have these values in the presently claimed range. It is also possible that none of them will. One of ordinary skill in the art would have to test each and every detergent composition using the methods for determining the delta values taught by applicants before they are assured they have a composition according to the present claims. This

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is an undue experimentation burden one of ordinary skill wishing to make applicants' invention.

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 15-21, 23, 24, 37, 39, 40, and 57 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claims 15-21 depend from claim 14, which has been cancelled. Claims 23 and 24 depend from claim 22 which has been cancelled. Claims 37, 39, and 40 depend from claim 36 which has been cancelled. Claim 57 depends from claim 25 which has been cancelled. Appropriate correction is required.

***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in-

(1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effect under this subsection of a national application published under section 122(b) only if the international application designating the United States was published under Article 21(2)(a) of such treaty in the English language; or

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(2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that a patent shall not be deemed filed in the United States for the purposes of this subsection based on the filing of an international application filed under the treaty defined in section 351(a).

7. Claims 1-4, 10, 12, 31, 32, 41, 42, 44, 46, 47, 49-51, 54, 55, 58, and 61-63 are rejected under 35 U.S.C. 102(e) as being anticipated by Baeck et al, US 6,077,818.

Baeck et al teach detergent compositions containing cellulase (see abstract). An example of such a composition is a granular detergent comprising 0.2% poly 4-vinylpyridine-N-oxide/copolymer of vinyl imidazole and vinyl pyrrolidone wherein cotton fabrics are washed with the composition and assessed for color rejuvenation (col. 25, example 1 and col. 29, example 6C). As this reference meets all material limitations of the claims at hand, the reference is anticipatory. With respect to claims referring to an article of manufacture with instructions, "Where sole distinction set out in claims over prior art is in printed matter, there being no new feature of physical structure and no new relation of printed matter to physical structure, such claims may not be allowed; it is only where claims define either new features of structure or new relations of printed matter to structure, or both, which new features or new relations give rise to some new and useful function, effect, or result, that claims may be allowed; particular branch of art considered does not change these principles." *Ex parte Gwinn* 112 USPQ 439. As the compositions are anticipated, and the instructions do not give rise to a new and useful function, effect or result, they do not contribute a patentable difference to applicant's invention.

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8. Claims 1-4, 10-12, 31, 32, 41, 42-44, 46, 47, 49-51, 54, 55, 58, and 61-63 are rejected under 35 U.S.C. 102(b) as being anticipated by Rusche et al, US 5,686,376.

Rusche et al teach a rinse bath for restoring color to fabrics (see abstract). An example of such a composition is a rinse bath comprising 3% poly 4-vinylpyridine-N-oxide/copolymer of vinyl imidazole and vinyl pyrrolidone (col. 22, example V). As this reference meets all material limitations of the claims at hand, the reference is anticipatory. With respect to claims referring to an article of manufacture with instructions, "Where sole distinction set out in claims over prior art is in printed matter, there being no new feature of physical structure and no new relation of printed matter to physical structure, such claims may not be allowed; it is only where claims define either new features of structure or new relations of printed matter to structure, or both, which new features or new relations give rise to some new and useful function, effect, or result, that claims may be allowed; particular branch of art considered does not change these principles." *Ex parte Gwinn* 112 USPQ 439. As the compositions are anticipated, and the instructions do not give rise to a new and useful function, effect or result, they do not contribute a patentable difference to applicant's invention.

### ***Claim Rejections - 35 USC § 103***

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are

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such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 1-7, 10-13, 31-34, 41-44, 46, 47, 49-56, and 58-63 are rejected under 35 U.S.C.

103(a) as being unpatentable over Trinh et al, US 5,977,055.

Trinh et al teach fabric softener compositions which provide color maintenance benefits to fabrics (see abstract). The softeners of the invention are intended to provide color restoration to fabrics (col. 3, line 4 and col. 4, line 53). Suitable softening additives of the invention include cationic polymers and aminosiloxanes (cols. 43-47). These compositions come with instructions for use (col. 4, line 17) and are contemplated for use with a sprayer (col. 55, example XII). It would have been obvious to one of ordinary skill in the art to formulate color care compositions containing cationic polymers together with instructions and sprayers as such components are taught by Trinh et al as well known in the art.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charles Boyer whose telephone number is (703) 308-2524. The examiner can normally be reached on Monday-Friday from 9:30 AM - 6:00 PM.

If reasonable attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Yogendra Gupta, can be reached on (703) 308-4708. The fax phone number for this Group is (703) 872-9310 for non-after-final amendments and (703) 872-9311 for after-final amendments.

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Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-0661.

Charles Boyer

July 15, 2003

A handwritten signature in cursive script that reads "Charles Boyer". The signature is written in dark ink and is positioned to the right of the typed name and date.